

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN L. LOTTER,)	
)	
Petitioner,)	4:04CV3187
)	
V.)	
)	
ROBERT HOUSTON, Warden,)	MEMORANDUM
Tecumseh State Correctional Center,)	AND ORDER
)	
Respondent.)	
_____)	

After considering the massive record in this case and the briefs of the parties, and observing that neither party has provided a detailed index of the state court records and both parties have seldom, if ever, provided pin-point citations to the records relevant to the issues of exhaustion and procedural default,

IT IS ORDERED that:

1. On or before the close of business on Friday, February 25, 2011, the parties shall *jointly* file an agreed ***Joint Index of State Records*** which will include the following:

A. ***Pretrial, Trial and Sentencing:*** The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the pretrial, trial and sentencing record before the state district court and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.¹

¹For example, the first document appearing in filing no. [49](#) appears to be the opinion of the Nebraska Supreme Court, dated November 6, 1998, regarding the direct appeal, bearing the header (in blue), Doc # 49-1, Page 1 of 38. (For purposes of describing the header, the case number, judge's initials, filing date, and page ID number have been omitted from this example and need not be cited when responding

B. *Direct Appeal (including modification of opinion):* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record on direct appeal to the Nebraska Supreme Court and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

C. *First Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the state district court regarding the first post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

D. *Appeal of First Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the Nebraska Supreme Court regarding the appeal of the first post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

E. *Second Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the state district court regarding the second post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

F. *Appeal of Second Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the Nebraska Supreme Court regarding the appeal of the second post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF

to this order.)

docket and (3) a citation to the CM/ECF header where the document begins.

G. *Third Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the state district court regarding the third post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

H. *Appeal of Third Post-Conviction Action:* The parties shall provide (1) a detailed description of each document submitted to this Court that makes up the record before the Nebraska Supreme Court regarding the appeal of the third post-conviction action and for each such document provide (2) a hyperlink to the filing number in this Court's CM/ECF docket and (3) a citation to the CM/ECF header where the document begins.

2. On or before the close of business on Friday, February 25, 2011, the Petitioner shall file a ***Petitioner's Statement Regarding Location in the Record of Presentment and Resolution of Federal Claims to and by State Courts*** which will include the following:

- A. Beginning with claim one, a quotation of each claim by reference to the Corrected Second Amended Petition for Writ of Habeas Corpus (filing no. [47](#) at CM/ECF pp. 32-46).

- B. Following each such quotation, a pin-point citation to each document submitted to this Court where it is asserted that the particular federal claim was presented to the state district court or the Nebraska Supreme and a pin-point citation to each document where it is asserted that the particular federal claim was resolved by the state district court or the Nebraska Supreme Court. The pin-point citation shall include (1) a detailed description of the document; (2) a hyperlink to the filing number in this Court's CM/ECF docket; and (3) a citation to the beginning *and* end of

each document by reference to the CM/ECF header appearing at the beginning and end of the relevant document.²

January 12, 2011.

BY THE COURT:

Richard G. Kopf
United States District Judge

²For example, a pin-point citation might look like this: Filing no. [62](#), Journal Entry dated January 31, 1994, signed by County Judge Curtis L. Maschman, contained in Bill of Exceptions, Volume 57, regarding proceedings before District Judge Bryan on February 12, March 26, and July 30, 2002, beginning at Doc # 62-23, Page 137 of 144 and ending at Doc # 62-23, Page 139 of 144. (For purposes of providing an example of a pinpoint citation, and regarding the CM/ECF header, the case number, judge's initials, filing date, and page ID number have been omitted from this example and need not be cited when responding to this order.)